

§970.5

24 CFR Ch. IX (4–1–15 Edition)

residents and it is the responsibility of the taking agency to comply with applicable URA requirements.

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under Title III of the Cranston-Gonzalez National Affordable Housing Act (HOPE I) (42 U.S.C. 1437aaa note);

(10) Units or land leased for non-dwelling purposes for one year or less;

(11) A public housing property that is conveyed by a PHA prior to DOFA to enable an owner entity to develop the property using the mixed-finance development method;

(12) Disposition of public housing property for development pursuant to the mixed-finance development method at 24 CFR part 941, subpart F;

(13) Demolition under the de minimis exception in §970.27, except that the environmental review provisions apply, including the provisions at §§970.7(a)(15) and (b)(13) of this part.

(14) Demolition (but not disposition) of severely distressed units as part of a revitalization plan under section 24 of the Act (42 U.S.C. 1437v) (HOPE VI) approved after October 21, 1998;

(15) Demolition (but not disposition) of public housing developments removed from a PHA's inventory under section 33 of the Act, 42 U.S.C. 1437z-5.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

§970.5 Definitions.

ACC, or *annual contributions contract*, is defined in 24 CFR 5.403.

Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

Appropriate government officials mean the Chief Executive Officer or officers of a unit of general local government.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing at HUD.

Chief Executive Officer of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the chief executive officer of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the

chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

Demolition means the removal by razing or other means, in whole or in part, of one or more permanent buildings of a public housing development. A demolition involves any four or more of the following:

(1) Envelope removal (roof, windows, exterior walls);

(2) Kitchen removal;

(3) Bathroom removal;

(4) Electrical system removal (unit service panels and distribution circuits); or

(5) Plumbing system removal (e.g., either the hot water heater or distribution piping in the unit, or both).

Disposition means the conveyance or other transfer by the PHA, by sale or other transaction, of any interest in the real estate of a public housing development, subject to the exceptions stated in §970.3.

DOFA, or *date of full availability*, means the last day of the month in which substantially all (95 percent or more) of the units in a housing development are available for occupancy.

Firm financial commitment means a commitment that obligates a creditable source, lender, or equity provider, to the lending or equity investment of a specific sum of funds to be made on or before a specific date(s) and may contain contingencies or conditions that must be satisfied by the borrower (or entity receiving equity investments) before the closing of the transaction. The condition of a firm commitment must be that it is enforceable by the borrower (or entity receiving the equity investment) upon the satisfaction of all contingencies or conditions.

PHA Plan—Means the PHA's initial, annual, and 5-year submissions under section 5A of the U.S. Housing Act of 1937, 42 U.S.C. 1437c-1.

Resident Advisory Board (RAB) has the same meaning as in §903.13(a) of this title.

Resident Council means a resident organization, the role and requirements

of which are as described in 24 CFR part 964.

Total development cost has the same meaning as in 24 CFR 941.103.

§ 970.7 General requirements for HUD approval of a PHA demolition/disposition application.

(a) *Application for HUD Approval.* A PHA must obtain written approval from HUD before undertaking any transaction involving demolition or disposition of PHA-owned property under the ACC. Where a PHA demolishes or disposes of public housing property without HUD approval, no HUD funds may be used to fund the costs of demolition or disposition or reimburse the PHA for those costs. HUD will approve an application for demolition or disposition upon the PHA's submission of an application with the required certifications and the supporting information required by this section and §§ 970.15 or 970.17. Section 970.29 specifies criteria for disapproval of an application. Approval of the application under this part does not imply approval of a request for additional funding, which the PHA must make separately under a program that makes available funding for this purpose. The PHA shall submit the application for demolition or disposition and the timetable in a time and manner and in a form prescribed by HUD. The supporting information shall include:

(1) A certification that the PHA has described the demolition or disposition in the PHA Annual Plan and timetable under 24 CFR part 903 (except in the case of small or high-performing PHAs eligible for streamlined annual plan treatment), and that the description in the PHA Annual Plan is identical to the application submitted pursuant to this part and otherwise complies with section 18 of the Act (42 U.S.C. 1437p) and this part;

(2) A description of all identifiable property, by development, including land, dwelling units, and other improvements, involved in the proposed demolition or disposition;

(3) A description of the specific action proposed, such as:

(i) Demolition, disposition, or demolition with disposition;

(ii) If disposition is involved, the method of sale;

(4) A general timetable for the proposed action(s), including the initial contract for demolition, the actual demolition, and, if applicable, the closing of sale or other form of disposition;

(5) A statement justifying the proposed demolition or disposition under the applicable criteria of §§ 970.15 or 970.17;

(6) If applicable, a plan for the relocation of tenants who would be displaced by the proposed demolition or disposition (including persons with disabilities requiring reasonable accommodations and a relocation timetable as prescribed in § 970.21);

(7) A description with supporting evidence of the PHA's consultations with residents, any resident organizations, and the Resident Advisory Board, as required under § 903.9 of this title;

(8) In the case of disposition only, evidence of compliance with the offering to resident organizations, as required under § 970.9;

(9) In the case of disposition, an estimate of the fair market value of the property, established on the basis of one independent appraisal, unless otherwise determined by HUD, as described in § 970.19(c);

(10) In the case of disposition, estimates of the gross and net proceeds to be realized, with an itemization of estimated costs to be paid out of gross proceeds and the proposed use of any net proceeds in accordance with § 970.19;

(11) An estimate of costs for any required relocation housing, moving costs, and counseling.

(12) Where the PHA is requesting a waiver of the requirement for the application of proceeds for repayment of outstanding debt, the PHA must request such a waiver in its application, along with a description of the proposed use of the proceeds;

(13) A copy of a resolution by the PHA's Board of Commissioners approving the specific demolition or disposition application (or, in the case of the report required under § 970.27(e) for "de minimis" demolitions, the Board of Commissioner's resolution approving the "de minimis" action) for that development or developments or portions thereof. The resolution must be signed